IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 94 OF 1998.

Comunidade of Curca,
a body constituted and
functioning under the Code of
Comunidades, 1961 having their
office at Curca, Goa, represented
herein by their Attorney
Shri Antonio Manuel E. D'Costa,
r/o Opp. Santa Ines Church,
Panaji, Goa. ... Appellant.

Versus

1. Shri Gopal Ondu Gawas,
   major, r/o Pale, Siridao,
   Goa, r/o House No.305,
   Moloca, Merces, Goa.

2. Dy. Collector & L.A.O.,
   North Goa, Panaji, Goa. ... Respondents.

Shri A.R. Kantak, Advocate for the Appellant.

Shri S.D. Lotlikar, Senior Advocate with Ms. S.Naik, Advocate for the Respondent No.1.

Shri H.R. Bharne, Government Advocate for the Respondent No.2.

CORAM: N.A. BRITTO, J.

DATE: 15TH APRIL, 2004.

ORAL JUDGMENT:

Heard learned Advocate Shri Kantak on behalf of the Appellant/Comunidade and learned Senior Advocate Shri Lotlikar on behalf of the respondent no.1 and learned Government Advocate Shri Bharne on behalf of the respondent No.2.

2. The respondent No.1 claims to be the tenant of the said Comunidade. There is no dispute that the reference under Section 18 of the Land Acquisition Act 1894 filed by the said tenant was allowed by the Reference Court, enhancing the compensation payable at the rate of Rs.40/- per sq.m. There is also no dispute that the the said tenant has filed for declaration to prove his tenancy which is pending before the Mamlatdar of Tiswadi. The learned Reference Court has enhanced the said compensation to the extent of the share of the said tenant which was paid to him before the L.A.O. and has kept his right open for increase in his share until the final decision to be given by the Mamlatdar. The learned Reference Court has also ordered the payment to be done to the said tenant subject to the third proviso under Section 31(2) of the said Act and subsequently upon furnishing the Indemnity Bond on 11.1.1999 has made the payment. Since the payment has already been made to the respondent No.1 who claims to be a tenant under a Indemnity Bond and his right to obtain further compensation has been reserved subject to the decision of the Mamlatdar,it is conceded on behalf of the appellant that nothing survives in this appeal,

and therefore the same is hereby dismissed with no order as to costs.

N.A .BRITTO, J.

sl.